

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 05-10088 MBB

JULIANNE MARIE EVANS,

Plaintiff,

vs.

Status Report

NANTUCKET COMMUNITY
SAILING, INC., a Massachusetts corporation,
RONAN O'SIOCHRU and DONNCHA
KIELY,

Defendants.

Plaintiff files this status report in anticipation of tomorrow's status conference.

The Irish defendants have filed answers. The case is at issue and ready to be set for trial, which should take no more than 2 full trial days.

Plaintiff's counsel has received amended returns of service from Ireland and will file the originals with the court tomorrow.

The defendants have asked to depose the plaintiff. She is presently in the Boston area (visiting since this past Monday) and available to be deposed. We offered to make her available tomorrow, but that was inconvenient for the defendants. She is willing to stay on in Boston so that she can be deposed, and we have offered to make her available to the defendants any time the next two weeks (although the sooner the better is preferred). We are awaiting word from the defendants on that.

It is unlikely the defendants will need any further discovery to be ready for trial, in that the plaintiff's claim is limited to damages for the permanent and irreversible loss of her sense of taste and smell, which diagnosis has been established by defendants' own expert, Dr. Norman Mann, from UConn's Taste and Smell Center.

Dr. Mann's deposition is in the process of being scheduled, and hopefully will take place sometime within the next 2 or 3 weeks, schedule's permitting. Dr. Mann has advised that he is available for deposition on November 10th, 11th or 15th at 11:00 a.m.

Plaintiff plans on calling only one live witness at trial, herself. She will offer Dr. Mann's testimony by deposition. Plaintiff has short taped statements (and transcripts) from the Irish defendants, copies of which have been provided to the defendants, and may offer them.

Plaintiff has provided all medical records to the defendant on multiple occasions and has answered all discovery requests. The case is simple, factually. Plaintiff took a ride on a sailboat, which was supposed to have been a leisurely sail that, unbeknownst to her, turned out to be a race between the 2 Irish defendants, both employees (sailing instructors) of the defendant, Nantucket Sailing Club. The boats nearly collided as they made their way to a "racing mark" and, in an effort to avoid colliding, the boom on one boat swung around, banging plaintiff in the head, the trauma causing her injuries. This case will not take long to try.

Defendants have suggested mediation. Plaintiff feels that there is not much chance of a settlement; however, is willing to have the case mediated by this court, any other magistrate judge or a private mediator. It is requested that mediation take place at or about the time plaintiff is deposed; either just before or right after. Defendants and their insurance carrier know all they need to know about the case to have evaluated its merits and settlement prospects. There is no need to force plaintiff back for mediation in the future.

Plaintiff requests that trial be set on the court's earliest trial docket, preferably in December, 2005, or soonest thereafter.

Respectfully submitted,

"/s/ Jeffrey A. Miller"

Jeffrey A. Miller, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by U.S. Mail and facsimile to Thomas J. Muzyka, Esq., One Washington Mall, Suite 1400 Boston, Massachusetts 02108 on November 3, 2005.

“/s/ Jeffrey A. Miller”

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